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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/991,352	11/20/2001	Roger A. Wilson	20000514.ORI	3354

23595 7590 02/26/2003
NIKOLAI & MERSEREAU, P.A.
900 SECOND AVENUE SOUTH
SUITE 820
MINNEAPOLIS, MN 55402

EXAMINER

FOX, CHARLES A

ART UNIT	PAPER NUMBER
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3652

DATE MAILED: 02/26/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/991,352

Applicant(s)

WILSON, ROGER A.

Examiner

Charles A. Fox

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 November 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Eskelinen. In regards to claim 1 Eskelinen US 5,540,533 discloses a material distributing device comprising:

a hopper (1) for carrying a load of material to be distributed;

a conveyor belt (17) having paddles (4.1) thereon for engaging and moving the material to be distributed, the conveyor supported by a framework (14,18) which is pivotally connected to the hopper, and engages the material from the top of said material;

a drive mechanism (22) attached to the conveyor for powering the conveyor to remove material from said hopper.

In regards to claim 7 Eskelinen further discloses a drive mechanism (10) to raise and lower the conveyor framework to engage or disengage the material in said hopper and to aid in loading the hopper by moving the conveyor out of the way.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

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the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2,3,6,8,9 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eskelinen as applied to claim 1 above, and further in view of Kenney. In regards to claims 2 and 3 Eskelinen teaches the limitations of claim 1 as above he does not teach the hopper being on a trailer or using the trailers wheel as the drive assembly for the conveyor. Kenney US 1,719,770 teaches a trailer (1) with a conveyor (26) located at the bottom of the trailer. Kenny further teaches that the conveyor is driven by a wheel (2) of the trailer such that the conveyor operates at a speed that is proportional to that of the trailer. Kenney further teaches a clutch (16) for selectively engaging the conveyor with the drive mechanism so as to distribute the material in the trailer at desired times.

It would have been obvious to one of ordinary skill in the art, at the time of invention to place the conveyor as taught by Eskelinen on a trailer as taught by Kenney in order to distribute the material in a remote location without the need for providing an additional power source to drive the conveyor.

In regards to claim 6 Eskelinen further teaches that a motor (22) drives the axle for turning the conveyor, and that the conveyor unloads the hopper at a rate that is proportional to the speed of the motor.

In regards to claims 8,9 and 12 Eskelinen further discloses a drive mechanism (10) to raise and lower the conveyor framework to engage or disengage the material in said hopper and to aid in loading the hopper by moving the conveyor out of the way.

Claims 4,5,10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eskelinen in view of Kenney as applied to claims 2 and 3 above, and further in view of Groeneveld et al. In regards to claims 4 and 5 Eskelinen in view of Kenney teach the limitations of claims 2 and 3 as above, they do not teach a variable speed gear box for the conveyor. Groeneveld et al. teach a manure spreader (21) with a gear box (28) that can change the speed of the conveyor (24) of the spreader by using control rod (61) to place the drive pinion in contact with either a high speed gear (52) or a low speed gear (53) for driving the spreading device. It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the device taught by Eskelinen in view of Kenney with a gearbox as taught by Groeneveld et al. in order to regulate the distribution of the material from the hopper independently of the speed of the trailer the hopper is riding on.

In regards to claims 10 and 11 Eskelinen further discloses a drive mechanism (10) to raise and lower the conveyor framework to engage or disengage the material in said hopper and to aid in loading the hopper by moving the conveyor out of the way.

The prior art made of record and not relied upon, but considered pertinent to applicant's disclosure is: Isaman 1919, MacDonald 1943, Krucera 1966, Blattermann et al. 1984 and Kay 1996.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles A. Fox whose telephone number is 703-605-4294. The examiner can normally be reached between 7:00-5:00 Monday-Thursday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen D. Lillis can be reached at 703-308-3248. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.



EILEEN D. LILLIS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

CAF
February 20, 2003

CAF 2-20-03